

Application No.: 10/701,182Docket No.: 713-959REMARKS

Applicants appreciate the Examiner's thorough review of the present application, and respectfully request reconsideration in light of the preceding amendments and the following remarks.

Claims 2-6 and 11-25 are pending in the application. Claims 1 and 7-10 have been cancelled without prejudice or disclaimer. Claim 6 has been rewritten in independent form. Claims 2-5 have been amended to better define the claimed invention. Claims 11-25 have been added to provide Applicants with the scope of protection to which they are believed entitled. No new matter has been introduced through the foregoing amendments.

The Examiner's 35 U.S.C. 102(b) rejection of claims 1-10 as being anticipated by *Phillips* (U.S. Patent No. 6,041,603) is noted. Applicants respectfully traverse the Examiner's rejection of at least claim 6, because the reference clearly fails to teach or disclose each and every element of the rejected claim, i.e., the bellows.

The Examiner has failed to specify with reasonable clarity how the applied reference teaches to discloses the claimed bellows. See, for example, page 3, lines 6-7 of the Office Action. Therefore, the Examiner's allegation that *Phillips* teaches a bellows is evidentially unsupported.

In addition, Applicants have carefully reviewed the applied reference, especially FIG. 18 showing all elements of the *Phillips* device, and still failed to locate any teaching of the claimed bellows. Therefore, the reference does not anticipate claim 6. Should the Examiner insists otherwise, she is kindly asked to cite the specific portion of *Phillips*, using column and line numbers as well as reference numerals, where the claimed feature might be taught or disclosed.

The anticipatory rejection of claim 6 as currently formulated by the Examiner is improper and should be withdrawn.

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Claims 2-5 and 11-12 depend from claim 6, and are considered patentable at least for the reason advanced with respect to claim 6. Claims 2-5 and 11-12 are also patentable on their own merits since these claims recite other features of the invention neither disclosed, taught nor suggested by the applied art.

As to claim 2, the Examiner has failed to specify with reasonable clarity how the applied reference teaches to disclose the claimed **contact foot**. It should be noted that it is the boot, rather than the foot, that has the through holes. See e.g., box "pierced foot" in FIG. A attached to the Office Action.

As to claim 3, the applied reference does not teach or suggest that **the boot is retained on the device exclusively by insertion of said fastener guide and contact foot into said first and second through holes, respectively**, without any other fixing or retaining means. It appears that the Examiner is reading magazine 26 of *Phillips* on the claimed boot. As can be seen in FIG. 18 of *Phillips*, "boot" 26 is not retained on the device exclusively by insertion of the fastener guide and contact foot into first and second through holes, respectively, as presently claimed.

As to claim 4, the applied reference does not teach or suggest that the boot further comprises **horizontal stiffening ribs vertically spaced from each other and arranged between the first and second elements**. See element 26 in FIG. 18 of *Phillips*.

As to claim 5, the applied reference does not teach or suggest that the assembly further comprises a **fastener feed magazine different from said boot and attachable to said device at a location behind said contact foot**. According to the Examiner's reading of *Phillips*, the magazine and boot are one and the same. The reference as applied by the Examiner does not teach or suggest the claimed fastener feed magazine.

As to claims 11-12, the applied reference does not teach or suggest the specifically claimed structure of the bellows.

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New independent claim 13 is directed to a boot mountable on and for covering a front side of a fastener driving device, the device comprising a front part and a fastener guide telescopically projecting forwardly from the front part and being rearwardly retractable into the front part, said boot comprising: a bellows having a proximal end and a distal end moveable relative to said proximal end in an axial direction of said bellows; and a body which is more rigid than said bellows at least in said axial direction, said body having a through hole adapted to grip the front part of the device with a wall of said through hole when said boot is mounted on said device; the proximal end of said bellows being joined to said wall of said through hole; and the distal end of said bellows projecting forwardly from said wall and being adapted to grip the fastener guide when said boot is mounted on said device for following movements of said fastener guide relative to said front part. The applied reference of *Phillips* clearly fails to teach or suggest the claimed bellows structure.

Claims 14-18 depend from claim 13, and are considered patentable at least for the reason advanced with respect to claim 13. Claims 14-18 are also patentable on their own merits since these claims recite other features of the invention neither disclosed, taught nor suggested by the applied art, as will be apparent to the Examiner upon reviewing these claims.

New independent claim 19 is directed to an assembly, comprising a fastener driving device, a fastener feed magazine, and a boot; said device comprising: a front part, a fastener guide for guiding a fastener forward, toward a substrate, said fastener guide telescopically projecting forwardly from the front part and being rearwardly retractable into the front part, a member extending downwardly from a rear portion of said front part, and a contact foot for facilitating positioning the fastener guide with respect to a surface of the substrate into which the fastener is to be driven; said boot being mountable on said device to cover said front part, a rear side of said fastener guide, and a front side of said member; and said fastener feed magazine being different from said boot and attachable to said device at a location behind said member and said contact foot. According to the Examiner's reading of *Phillips*, the magazine and boot are one and

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the same. The reference as applied by the Examiner does not teach or suggest the claimed fastener feed magazine.

Claims 20-25 depend from claim 19, and are considered patentable at least for the reason advanced with respect to claim 19. Claims 20-25 are also patentable on their own merits since these claims recite other features of the invention, neither disclosed, taught nor suggested by the applied art, as will be apparent to the Examiner upon reviewing these claims.

Each of the Examiner's rejections has been traversed. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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